

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

DEVONTE B. HARRIS,

Plaintiff,

v.

BORQUEZ, *et al.*,

Defendants.

Case No. 1:23-cv-00046-NODJ-BAM (PC)

ORDER DISCHARGING ORDER TO SHOW  
CAUSE WHY ACTION SHOULD NOT BE  
DISMISSED FOR FAILURE TO  
PROSECUTE  
(ECF No. 40)

ORDER LIFTING STAY OF DISCOVERY  
AND RESETTING DISCOVERY AND  
DISPOSITIVE MOTION DEADLINES  
(ECF No. 39)

Discovery Deadline: **June 19, 2024**

Dispositive Motion Deadline: **August 29, 2024**

Plaintiff Devonte B. Harris (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Borquez and Quevedo<sup>1</sup> for deliberate fabrication of evidence in violation of the Fourteenth Amendment.

On December 18, 2023, the Court granted Defendants’ motion to stay non-exhaustion-related discovery and vacate all current deadlines pending disposition of their motion for summary judgment based on Plaintiff’s failure to exhaust administrative remedies. (ECF No. 39.) On January 16, 2024, following Plaintiff’s failure to file an opposition or statement of non-

---

<sup>1</sup> Erroneously sued as “Querredo.”

1 opposition, the Court issued an order for Plaintiff to show cause why this action should not be  
2 dismissed for failure to prosecute. (ECF No. 40.) The same date, Defendants filed a withdrawal  
3 of their motion for summary judgment, stating that after further investigation, Defendants'  
4 counsel has received information that indicates that Plaintiff has exhausted his administrative  
5 remedies with respect to the claims he asserts in this action. (ECF No. 41.) The motion for  
6 summary judgment for failure to exhaust is therefore withdrawn.

7 Accordingly, the Court finds it appropriate and necessary to discharge the order to show  
8 cause, lift the stay of non-exhaustion-related discovery, and reset the discovery and dispositive  
9 motion deadlines. Fed. R. Civ. P. 16.

10 Based on the foregoing, IT IS HEREBY ORDERED that:

- 11 1. The January 16, 2024 order to show cause, (ECF No. 40), is DISCHARGED;
- 12 2. The stay of merits-based discovery is LIFTED;
- 13 3. The deadline for the completion of all discovery, including filing all motions to  
14 compel discovery, shall be **June 19, 2024**. Absent good cause, discovery motions will  
15 not be considered if filed after the discovery deadline. Therefore, discovery requests  
16 and deposition notices must be served sufficiently in advance of the discovery  
17 deadline to permit time for a response and time to prepare and file a motion to compel;
- 18 4. The deadline for filing all dispositive motions (other than a motion for summary  
19 judgment for failure to exhaust) shall be **August 29, 2024**; and
- 20 5. Any request for an extension of these deadlines must be filed on or before the  
21 expiration of the deadline. However, the parties are advised that an extension of time  
22 will only be granted upon a clear showing of good cause.

23 IT IS SO ORDERED.  
24

25 Dated: January 16, 2024

26 /s/ Barbara A. McAuliffe  
27 UNITED STATES MAGISTRATE JUDGE  
28